

Message Text

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PAGE 01 TOKYO 02595 241015Z
ACTION L-03

INFO OCT-01 EA-07 ISO-00 ACDA-07 AGRE-00 AID-05 CEA-01
CEQ-01 CG-00 CIAE-00 COME-00 DLOS-06 DODE-00 DOTE-00
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INT-05 IO-13 JUSE-00 NSAE-00 NSC-05 NSF-01 OES-06
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TO SECSTATE WASHDC 5681
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AMEMBASSY SEOUL
AMEMBASSY SINGAPORE

C O N F I D E N T I A L TOKYO 2595

E.O. 11652: GDS
TAGS: PLOS, JA
SUBJECT: TERRITORIAL SEA LEGISLATION

REF: A) STATE 038097; B) TOKYO 2147

SUMMARY: DESPITE OPPOSITION PRESSURE TO BAR
NUCLEAR-ARMED VESSELS FROM "JAPANESE" INTERNATIONAL STRAITS
WHEN TERRITORIAL SEA EXTENDED TO TWELVE MILES, AND PROSPECT
PRESSURE WILL INCREASE SHOULD MALACCA-STRAITS COUNTRIES
ANNOUNCE AGREEMENT ON LIMITATION ON TRANSIT RIGHTS THERE,
EMBASSY ASSURED THAT GOJ WILL HOLD TO UNIMPEDED TRANSIT
REGIME. HOWEVER, IT SEEMS LIKELY GOJ WILL BE OBLIGED TO
SPECIFY WHICH STRAITS IT CONSIDERS TO BE ONES "USED FOR
INTERNATIONAL NAVIGATION" AND HENCE PROVISIONALLY OUTSIDE
SCOPE OF TERRITORIAL SEA LAW. END SUMMARY

1. INTER-AGENCY TEAM OF JAPANESE BUREAUCRATS IS WORKING
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PAGE 02 TOKYO 02595 241015Z

TO REACH CONSENSUS ON DRAFT LEGISLATION EXTENDING TERRITORIAL
SEA PRIOR TO MARCH 22 DEADLINE FOR CABINET APPROVAL OF ORDINARY
BILLS TO BE PRESENTED AT CURRENT DIET SESSION.
MEANWHILE, GOJ DECISION TO MAINTAIN
STATUS QUO IN INTERNATIONAL STRAITS, PENDING CONCLUSION
OF LOS TREATY, HAS BEEN UNDER ALMOST DAILY ATTACK IN
DIET BY OPPOSITION INTERPELLATORS. SO FAR, GOJ HAS

DEFLECTED CALLS TO BAR NUCLEAR-ARMED VESSELS FROM STRAITS BY ARGUING THAT JAPANESE-IMPOSED RESTRICTION ON TRANSIT OF ANY TYPE OF SHIP WOULD UNDERMINE GOJ POSITION ON SUPERTANKER TRANSIT RIGHTS IN MALACCA AND OTHER STRAITS. EXPECTED ANNOUNCEMENT BY MALACCA-STRAITS STATES OF AGREEMENT ON UNDER-KEEL-CLEARANCE LIMIT AND TRAFFIC SEPARATION SCHEME IS THOUGHT CERTAIN TO PROVOKE EVEN STRONGER PRESSURES ON GOJ TO APPLY "NON-NUCLEAR PRINCIPLES" TO STRAITS.

2. HOWEVER MUCH HEAT IS GENERATED BY THOSE DEMANDING NUCLEAR-ARMED VESSELS BE EXCLUDED FROM "JAPANESE" STRAITS, FONOFF LEGAL DIVISION DIRECTOR MAKOTO WATANABE TOLD EMBOFF FEBRUARY 24, GOJ WOULD STAND FIRM ON UNIMPEDED TRANSIT REGIME FOR THEM, PENDING LOS TREATY. LEGISLATION WILL BE CLEARLY PROVISIONAL, TO HAVE EFFECT ONLY UNTIL LOS TREATY ACHIEVED.

3. WATANABE SAID IN RESPONSE TO SUGGESTION REF. A, THAT FONOFF RECOGNIZED THAT IN LOS CONTEXT IT WAS UNDESIRABLE TO SET PRECEDENT OF LISTING STRAITS CONSIDERED TO BE "USED FOR INTERNATIONAL NAVIGATION", OFFSETTING THIS, HOWEVER, HE THOUGHT, WERE TWO FACTORS. FIRST, FISHERIES INTERESTS INSIST THAT MARITIME AREA EXCLUDED FROM PROVISIONAL TERRITORIAL SEA BE HELD TO MINIMUM. IF IT SEEMED THAT SOME SIXTY STRAITS AND PASSAGES WOULD FALL UNDER RUBRIC OF "INTERNATIONAL STRAITS," EFFECT WOULD BE TO FOSTER ALLIANCE BETWEEN FISHERMEN AND ANTI-NUCLEAR GROUP. SECOND, FONOFF APPREHENDED THAT ATTEMPT TO DEFINE

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PAGE 03 TOKYO 02595 241015Z

"STRAITS USED FOR INTERNATIONAL NAVIGATION" IN MANNER SATISFACTORY TO FISHERMEN MIGHT COMPEL GOJ TO OFFER LANGUAGE MORE RESTRICTIVE THAN THAT ON WHICH LOS CONFERENCE MIGHT REACH CONSENSUS: THEREFORE IT TENDED TO THINK LARGER LOS INTEREST BETTER SERVED BY SPECIFYING IN BILL WHICH STRAITS CONSIDERED PROVISIONALLY OUTSIDE TERRITORIAL SEA.

4. EMBOFF FURTHER SUGGESTED TO WATANABE NOTION THAT SUCH STRAITS COULD BE IDENTIFIED IN PRESENTATION TO DIET BUT NOT LISTED IN TEXT OF BILL (AGAIN PER REF. A). WATANABE INDICATED THAT THIS COURSE WAS UNDER CONSIDERATION BUT THAT IT WAS MORE LIKELY THAT GOJ WOULD BE COMPELLED TO SPECIFY STRAITS IN BILL ITSELF.

5. EMBOFF ALSO CONVEYED INFORMAL RESPONSE, PER REF B, TO FONOFF SECURITY DIVISION CHIEF SATO. SATO OFFERED SAME VIEW, ADDING THAT INCLUSION OF STRAITS IN BILL WOULD REDUCE CHANCES FOR DEBATE AND POSSIBLE DIET RESOLUTION N NUCLEAR PRINCIPLES,

SHICH MIGHT OTHERWISE EMERGE.
SHOESMITH

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